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**BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Application Number: 09/823,866
Filing Date: March 31, 2001
Appellant(s): KAPPEL ET AL.



Richard M. Moose
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 06 April 2006 appealing from the Office action mailed 08 July 2005.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

No amendment after final has been filed.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellants' statement of the grounds of rejection to be reviewed on appeal is correct.

**NEW GROUND(S) OF REJECTION**

Claims 11 – 15 are rejected under 35 U.S.C. §101.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

| | | |
|---|---|---|
| 5,544,320 | KONRAD | 4-1996 |
| 5,732,270 | FOODY et al. | 3-1998 |

D. Schmidt, "Wrapper Facade - a structural Pattern for Encapsulating Functions within Classes", C++ Report, Feb., 1999, pp (10).

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-4, 6-9, 11-14, 16-19, 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schmidt ("Wrapper Façade – A Structural Pattern for Encapsulating Functions within Classes") in view of Konrad (US Pat. 5,544,320).

Claims 5, 10, 15 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schmidt in view of Konrad as applied to claims 4, 9, 14 and 19 above, and further in view of Foody et al. (US Pat. 5,732,270).

(New) Claims 11 – 15 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

**(10) Response to Argument**

**1) Claims 1-4, 6-9, 11-14, 16-19, 21 and 22**

Appellants argued (Brief pages 9 – 12) that Schmidt and Konrad fail to disclose, singularly or in combination, all elements of present independent claims 1, 6, 11 and 16. Specifically, Appellants argued that Konrad discloses "objects that 'act like' both servers and clients," (Brief page 11 ¶ 2) as opposed to the objects are residing on separate servers.

Examiner respectfully disagrees. Konrad discloses two remote hosts that communicate together (Fig. 3b), disclosing two separate servers. Konrad also discloses that objects reside on the two machines and that the objects communicate. Specifically, the Remote Object Client is an object located on Other Remote Host 106a (Fig. 3b; col. 11 lines 52 – 65) and a Remote Market Objects (associated with the Desired Utility Service) are located on Other Remote Host 106b (Fig. 3b; col. 14 lines 45 – 66) and include objects such as Remote Want Ad Object and Remote Market Survey Object (col. 14 lines 51 and 65, respectively).

**2) Claims 5, 10, 15 and 20**

Appellants argued (Brief pages 12 – 13) that the rejections do "not address the issue of limiting the translation from one view to another <u>if the at least two objects are</u>

address classes, as specifically recited in each of the subject pending claims," and that "Schmidt already provides all the bi-directional interoperability he needs via the single server and multiple client system he provides," (page 13 ¶ 3).

Examiner respectfully disagrees. Since it is obvious to include address related objects/classes (see the rejection of claim 4), it is also obvious to provide translation of these address objects along with any other objects that must be translated in order for the heterogeneous object systems to interoperate as disclosed by the cited references. The language of the claim does not limit translation to being only if the objects are address objects. As to Appellants' explanation that "Schmidt already provides all the bi-directional interoperability he needs..." (Brief page 13 ¶ 3), Examiner thanks the Appellants for pointing out that Schmidt does provide the necessary translation and this is further evidence that it would have been obvious to translate the objects.

**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

**(12) Relevant Text of the Final Rejection is Reproduced Below for Completeness with the New Grounds for Rejection Under 35 USC 101**

35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 11 – 15 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The Appeal Brief expressly discloses that the computer-readable medium can be, among other things, a propagation medium (a form of energy – signal) or "could even be paper or other medium with a program printed on it (page 5 ¶ 1). Therefore, the claimed subject matter is not statutory per the Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility (signed 26 October 2005) – OG Cite: 1300 OG 142 – Annex IV (c).

1. Claims 1-22 are pending. This action is in response to the amendment filed 6/8/2005. Applicant has amended claims 1, 6, 11 and 16.

2. The finality of the office action mailed 2/8/2005 are withdrawn in view of applicant's arguments, pages 5-6.

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 1-4, 6-9, 11-14, 16-19, 21, 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schmidt ("Wrapper Façade – A Structural Pattern for Encapsulating Functions within Classes") in view of Konrad (U S Pat. 5,544,320).

Regarding claims 1-22, it is noted that as disclosed, an object refers to a function/procedure and a component to a set of objects. See application as filed, page 10, lines 9-10.

As to claim 1, Schmidt teaches a system for providing object to object communication (client - server communications), comprising:

means for identifying at least two objects (one being the client and one being database/printer service) from a plurality of

objects (client, database, printer, console services/functions) to communicate (invoke / request service) [fig.s 1, 3];

means for locating the at least two objects to communicate (socket handles) [page 1, right col.; page 6, right col., 2nd code listing]; and

means for using a component framework (wrapper façade implemented as frameworks such as ACE) to enable the communication (forward client invocations) of the at least two objects [page 4, sections 2.7, 2.8; page 6, section "The socket wrapper façade"].

Regarding the at least two object located in separate and distinct server locations, in a client/server configuration, a client request a service and the server provides the service. An object is a client to one object and is a server to another object. Such configuration is taught by Konrad who teaches an entity (host 106a including remote object client 114) is a client to one object (host 106b including desired utility service 118 and server 116) and is a server to another object (host 104 including human interface 110 to accept user input). Col. 17, lines 40-44; fig. 3b. Given the teaching of Konrad, it would have been obvious to include both client and server functionalities into each of the client entities of Schmidt. One of ordinary skill in the art would have been motivated to combine the teachings of Schmidt and Konrad because this would have provided better network traffic efficiency and security (col. 4, lines 34-42).

When the teachings are combined, a client machine of Schmidt would have behaved as both a client machine/host and a server machine/host, and therefore the two communicating objects would have been located on separate and distinct server locations/machines.

As to claim 6, 11 and 16, these are the respective method, program product and system claims of claim 1. Thus note claim 1 for discussion. Further regarding claim 16, note the equivalence of an identifier that identifies / means for identifying, a locator that locates / means for locating. It is noted that when the teaching of Schmidt is modified (discussion of claim 1, regarding the at least two object located in separate and distinct server locations), the component framework would have existed across multiple distinct servers because the communicating objects would have been located on respective server locations and communicated therefrom using the framework.

As to claim 2, Schmidt teaches means for determining (logging server) if the at least two objects (database, printer services/functions) are within different components (database, printer) [fig. 1]. While not explicitly stated, the database and the printer services would each have contained multiple objects.

As to claim 3, Schmidt teaches means for using a wrapper façade to enable the communication of the at least two objects [wrapper façade, see discussion of claim 1] if the at least two objects are within different components [The database and printer objects/functions are within the database and the printer services].

As to claim 4, Schmidt teaches using objects to represent functions such as threading, sockets and mutex (pages 5-7). Thus it would have been obvious to also represent address related functions by corresponding objects/classes.

As to claims 7-9, 12-14 and 17-19, these are the method, program product and system claims of claims 2-4, respectively. Thus note claims 2-4 for discussions.

As to claim 21, it is covered by claim 1, thus note claim 1 for discussion.

As to claim 22, Schmidt teaches the component framework for communication is implemented as object-oriented framework ACE (page 9), which uses CORBA as its communication middleware, as one of ordinary skill in the art recognizes.

5. Claims 5, 10, 15, 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schmidt in view of Konrad as applied to claims 4, 9, 14, 19 and further in view of Foody et al (US Pat. 5,732,270).

As to claim 5, Note claim 4 for address classes. Schmidt does not teach translation from one view to another view.

Foody teaches object communications across heterogeneous systems (fig. 11), including translating from one view to another view (convert types) during communication (call). See col. 13, line 58 – col. 14, line 4. Given the teaching of Foody, it would have been obvious to include into Schmidt translation from one view to another view. One of ordinary skill in the art would have been motivated to combine the teachings of Schmidt and Foody because this would have provided bi-directional interoperability (Foody, col. 6, lines 47-59) which is desirable to the heterogeneous systems of Schmidt (page 1, fig. 1) wherein a client desires both to send a request to and to receive a response from heterogeneous services such as database and printing.

As to claim 10, 15, 20, these are the respective method, program product and system claims of claim 5. Thus note claim 5 for discussion.

6. Applicant's arguments filed 6/8/2005 have been fully considered but they are not persuasive.

Applicant argued that Schmidt does not teach object to object communication across multiple distinct servers or server locations. (Remarks, pages 10-11).

The examiner's response is that object to object communication across multiple distinct servers or server locations is met by the combination of Schmidt and Konrad. As discussed in the rejection of claim 1, in a client/server configuration, a client request a service and the server provides the service, and an object is a client to one object and is a server to another object. Such configuration is taught by Konrad who teaches an entity (host 106a including remote object client 114) is a client to one object (host 106b including desired utility service 118 and server 116) and is a server to another object (host 104 including human interface 110 to accept user input). Col. 17, lines 40-44; fig. 3b. Given the teaching of Konrad, it would be obvious to include both client and server functionalities into each of the client entities of Schmidt. When the teachings are combined, a client machine of Schmidt would behave as both a client machine/host and a server machine/host, and therefore the two communicating objects would be located on separate and distinct server locations/machines. When the teachings are combined, the component framework would exist across multiple distinct servers because the communicating objects would be located on respective server locations and communicate therefrom using the framework in a distributed manner. In Schmidt, it is the object-oriented framework architecture, including the exposed interfaces, rather than the location of the software, that enables the communication between objects.

For the above reasons, it is believed that the rejections should be sustained.

This examiner's answer contains a new ground of rejection set forth in section **(9)** above. Accordingly, Appellants must within **TWO MONTHS** from the date of this answer exercise one of the following two options to avoid *sua sponte* **dismissal of the appeal** as to the claims subject to the new ground of rejection:

(1) **Reopen prosecution.** Request that prosecution be reopened before the primary examiner by filing a reply under 37 CFR 1.111 with or without amendment, affidavit or other evidence. Any amendment, affidavit or other evidence must be relevant to the new grounds of rejection. A request that complies with 37 CFR 41.39(b)(1) will be entered and considered. Any request that prosecution be reopened will be treated as a request to withdraw the appeal.

(2) **Maintain appeal.** Request that the appeal be maintained by filing a reply brief as set forth in 37 CFR 41.41. Such a reply brief must address each new ground of rejection as set forth in 37 CFR 41.37(c)(1)(vii) and should be in compliance with the other requirements of 37 CFR 41.37(c). If a reply brief filed pursuant to 37 CFR 41.39(b)(2) is accompanied by any amendment, affidavit or other evidence, it shall be treated as a request that prosecution be reopened before the primary examiner under 37 CFR 41.39(b)(1).

Extensions of time under 37 CFR 1.136(a) are not applicable to the TWO MONTH time period set forth above. See 37 CFR 1.136(b) for extensions of time to reply for patent applications and 37 CFR 1.550(c) for extensions of time to reply for ex parte reexamination proceedings.

Respectfully submitted,

Nathan Price

**A Technology Center Director or designee must personally approve the new ground(s) of rejection set forth in section (9) above by signing below:**

Conferees:

William Thomson, SPE 2194

WEI ZHEN
SUPERVISORY PATENT EXAMINER

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